

From: Craig Carlisle
To: Tobler, Benjamin
Date: 12/3/04 11:38AM
Subject: Fwd: EPA Support Letter for Rainbow

>>> <Fernandez.Darlene@epamail.epa.gov> 12/03/04 10:46AM >>>

John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, #100
San Diego, CA 92123

Dear Mr. Robertus,

The U. S. Environmental Protection Agency has reviewed the proposed Rainbow Creek nitrogen and phosphorus TMDLs and associated implementation plan. We strongly urge the Regional Board to adopt them at the December Board meeting. The proposed TMDLs meet all federal regulatory requirements and will be approvable when they are submitted to EPA. The TMDLs are based on sound analytical methods that identify reasonable pollutant reductions necessary to attain the existing Basin Plan numeric water quality objectives. The TMDLs are consistent with numerous nutrient TMDLs developed elsewhere in California, including the TMDLs for Los Angeles River, Laguna de Santa Rosa, and Malibu Creek. We are pleased that the TMDLs include waste load allocations to account for future growth in the watershed. The phased implementation and monitoring plan provides ample time to implement needed controls, monitor their effectiveness, and adjust the TMDLs if necessary in the future. We commend staff for their extensive efforts to involve the public in the development of the TMDLs and implementation plan over the past several years. These TMDLs provide a sound plan for addressing nutrient problems in Rainbow Creek.

It is very important for the Board to adopt the TMDLs, which have been under development for more than 5 years. Rainbow Creek has been included on the Section 303(d) list as a high priority for TMDL development since 1996. The TMDLs were initially scheduled for completion in June, 1998, were rescheduled for adoption in 2001 and 2002, and are now long overdue. The Section 303(d) list includes 66 impaired waters in the San Diego Region, most of which require TMDLs for multiple pollutants and have been listed for at least 8 years. To date, the State has adopted and submitted only one TMDL from the San Diego Region. Given this performance record, the State and EPA remain vulnerable to legal challenges from parties who would seek court-ordered TMDL completion schedules. It is vitally important for the San Diego Region to improve its performance in TMDL adoption in order to honor longstanding commitments, assure continued program funding, and help avoid the prospect of court-ordered TMDL schedules.

Moreover, adopting the Rainbow Creek TMDLs and other TMDLs (due later this year) will assist the Regional Board and local stakeholders in improving water quality by addressing key pollutant sources. For point sources, TMDLs and associated wasteload allocations provide a comprehensive guide to developing reasonable yet effective NPDES permit limits for multiple dischargers within a watershed while providing a

greater degree of certainty to dischargers about their future pollution control obligations. For nonpoint sources, TMDLs and load allocations help target needed improvements in management practices. Nonpoint source control projects needed to implement the TMDLs will become eligible to receive supplemental funding through Clean Water Act Section 319 grants following TMDL adoption and approval. Projects in the San Diego Region are currently ineligible for these funds because no TMDLs have been approved to address nonpoint sources.

The Rainbow Creek TMDLs demonstrate the San Diego RWQCB can develop sound TMDLs and work effectively with stakeholders to plan their implementation. We hope the Regional Board will promptly approve the Rainbow Creek TMDLs and other TMDLs to be proposed in the coming year. If you have any questions concerning these comments, please call me at (415) 972-3572 or Peter Kozelka at (415) 972-3448.

Sincerely yours,

Alexis Strauss
Director, Water Division

CC: Alo, Tom; Barker, David; Coe, Art; Honma, Lisa; Monji, Alan; Robertus, John